

REMARKS

The amendments to claims 8-10, 12-14, 16-18, 20-23, 27, 29-32, 34, 35 were required by claim objections set forth in the Office Action of 05/20/2004. Therefore, the amendments to the claims do not add new matter. In particular, claim 8 was amended to incorporate part of the text of previously presented claim 6. Claim 14 was amended to incorporate part of the text of previously presented claim 11, which in particular recites that the cortical bone is an "allograft or xenograph." Claim 30 was amended to incorporate the text of previously presented claim 28. Claims 9, 10, 12, 13, 16-18, 20-23, 27, 29, 31, 32, 34, and 35 do not add new matter, but rather were amended to recite the claim number from which they depend.

Claim 64 was amended to incorporate part of the text of the previously presented claim 8, and therefore does not add new matter.

Claims 6, 7, 11, 28 and 67-74 have been cancelled.

Claims Under Examination

Applicants acknowledge that claims 8-10, 12-27 and 29-66 are pending.

Summary of the Bases for Rejection

Claims 6, 7, 10-13, 16, 17, 19-23, and 64-66 are rejected under 35 U.S.C. § 102(b), for being allegedly anticipated by U.S. Patent No. 5,961,520 (Beck).

Claims 28, 29 and 31-33 are rejected under 35 U.S.C. § 102(b), as being allegedly anticipated by U.S. Patent No. 4,744,793 (Parr).

Claims 9 and 18 are rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over U.S. Patent No. 5,961,520 (Beck) in view of U.S. Patent No. 5,769,899 (Schwartz).

The Applicants will address each of these bases for rejection in Sections I-II, which follow.

ALLOWABLE SUBJECT MATTER

Claims 8, 14, 15, 24-26, 30, 34 and 35 are objected to as being dependent upon a rejected base claim, but are considered allowable by the Patent Office if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

I. 35 U.S.C. § 102(b)

As stated by the Patent Office (Office Action at page 4), claims 8 and 14 contain allowable subject matter and have been amended in independent form as requested to place in condition for allowance. Independent claim 64 has been amended to contain the allowable subject matter of claim 8 and is therefore also in condition for allowance.

Claims 6, 7, 10-13, 16, 17, 19-23, and 64-66 are rejected under 35 U.S.C. § 102(b), for being allegedly anticipated by U.S. Patent No. 5,961,520 (Beck). Claims 6, 7 and 11 have been cancelled. Claim 10 has been amended to depend from allowable claim 8, now amended, and is therefore in condition for allowance. Claims 12, 13, 16, 17, 20-23 as currently amended, and claim 19 as previously presented, depend from the allowable claim 14, as currently amended, and are therefore in condition for allowance. Claims 65 and 66, as previously presented, depend from claim 64, now amended to incorporate the text of allowable claim 8. Therefore claims 64 and its dependents (claims 65-66) and are therefore in condition for allowance.

Claims 28, 29 and 31-33 are rejected under 35 U.S.C. § 102(b), for being allegedly anticipated by U.S. Patent No. 4,744,793 (Parr). Claim 28 has been cancelled. As stated by the Patent Office (Office Action at page 4), claim 30 contains allowable subject matter, and would be allowable if placed in independent form and if it incorporated the text of its base claim (claim 28). As suggested, claim 30 has been so amended and is in condition for allowance. Claims 29, 31, and 32 as currently amended, and claim 33 as previously presented, depend from the allowable claim 30, and are therefore in condition for allowance.

For these reasons, claims 8-10, 12-13, 16, 17, 19-23, 28-29, 31-33 and 64-66 are in condition for allowance over Beck and/or Parr .

II. 35 U.S.C. § 103(a)

Claims 9 and 18 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Beck, Jr. *et al.* (U.S. Patent 5,961,520) in view of Schwartz *et al.* (US Patent 5,769,899). Claim 9 has been amended to depend from allowable claim 8, and now is in condition for allowance. Claim 18 has been amended to depend from allowable claim 14, and is also in condition for allowance. For these reasons, claims 9 and 18 are non-obvious and in condition for allowance.

CONCLUSION

In view of the amendments and arguments provided herein, all bases for rejection of claims 10-13, 16, 17, 19-23 29, 31-33 and 64-66 under 35 U.S.C. § 102(b) for alleged anticipation have been rebutted. In view of the amendments and arguments provided herein, all bases for rejecting claims 9 and 18 under 35 U.S.C. § 103(a) have been rebutted. Allowable claims 8 and 14 have been amended to independent form.

Therefore, the Examiner is respectfully requested to prepare a Notice of Allowability allowing claims 8, 14, 30 and their dependents, *i.e.*, claims 8-10, 12-27, 29-35 and 64-66.

Respectfully submitted,

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